

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress
Washington, D.C.

In the Matter of:

Determination of Rates and Terms for
Making and Distributing Phonorecords
(Phonorecords III)

Docket No. 16-CRB-0003-PR (2018-2022)

**SERVICES' UNOPPOSED MOTION FOR PARTIAL RECONSIDERATION OF
ORDER REGARDING SERVICES' OMNIBUS EXPERT MOTION**

Amazon Digital Services LLC, Google Inc., Pandora Media, Inc., and Spotify USA, Inc. (collectively, the “Services”) respectfully submit the Services’ Unopposed Motion for Partial Reconsideration of Order Regarding Services’ Omnibus Expert Motion (“Motion”) for reconsideration of only Section IV.A of the *Order on Copyright Owners’ Motions to Exclude Written Testimony and Accompanying Analyses, Spotify’s Motion to Admit Trial Exhibit 1095, and Services’ Motions Seeking Exclusion of Certain Fact Witness and Expert Witness Testimony*, issued on July 24, 2017 (the “Order”) in which the Judges ruled that they “will not consider or give weight to the analysis found” in Section III of the Written Direct Testimony (“WDT”) of Mr. Lawrence Miller. Order at 6.

When Mr. Lawrence Miller was unavailable to testify at the hearing on a rescheduled date, his WDT was withdrawn by the Copyright Owners and was not offered into evidence at the hearing. (4/7/17 Tr. 5555:15-5556:5). Upon withdrawal by the Copyright Owners, the Judges concluded at the hearing that “we won’t read [Mr. Lawrence Miller’s written] testimony as part of the record,” to which the Copyright Owners agreed. (*Id.* at 5556:3-4).

The Services have conferred with counsel for the Copyright Owners, and the Copyright Owners do not contest that the portion of the Motion directed to Mr. Lawrence Miller was rendered moot by the full withdrawal of his WDT by the Copyright Owners, and that no portion of Mr. Lawrence Miller's WDT should be read as part of the record in this matter (and no reference is made to his WDT in the Proposed Findings of Fact and Conclusions of Law or Replies thereto submitted by the Participants).

For the foregoing reasons, the Services respectfully request that the Judges reconsider the portion of the Order pertaining to Mr. Miller's WDT and clarify that it will not be considered at all.

Dated: August 3, 2017

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2017 I caused a copy of the Services' Unopposed Motion for Partial Reconsideration of Order Regarding Services' Omnibus Expert Motion and the Proposed Order Regarding Services' Omnibus Expert Motion to be served via eCRB (to the extent available) and by email to the participants and counsel listed below:

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/s/ Meredith Santana
Meredith Santana

Certificate of Service

I hereby certify that on Thursday, August 03, 2017 I provided a true and correct copy of the Service's Unopposed Motion for Partial Reconsideration of Order Regarding Services' Omnibus Expert Motion to the following:

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Johnson, George, represented by George D Johnson served via Electronic Service at george@georgejohnson.com

National Music Publishers Association (NMPA) et al, represented by Donald Zakarin served via Electronic Service at dzakarin@pryorcashman.com

Spotify USA Inc., represented by Richard M Assmus served via Electronic Service at rassmus@mayerbrown.com

Google Inc., represented by Katherine Merk served via Electronic Service at kmerk@kslaw.com

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Signed: /s/ Benjamin E. Marks